

**WORKERS' COMPENSATION DEBT REDUCTION AND REGULATORY
SURCHARGE PERCENTAGES (W. Va. Code § 23-2C-3)**

**EFFECTIVE FOR COVERAGES ISSUED OR RENEWED ON OR AFTER
JULY 1, 2007**

Effective July 1, 2007		
W. Va. Code § 23-2C-3	Private Market Carriers	Self-Insured Employers
Debt Reduction Surcharge	8.5%	0.22%
Regulatory Surcharge	6.3%	0.14%

BACKGROUND

Senate Bill 1004, effective January 29, 2005, provides for new revenue sources for reducing the existing unfunded liability of the workers' compensation fund and for funding the portion of the Insurance Commissioner's budget attributable to the regulation of the workers' compensation private market. The market is subject to two separate surcharges of workers' compensation premium, applied to each policy holder's premium payment and remitted to the Insurance Commissioner. In addition, the self-insured employer community is assessed a percentage of payroll for remittance to the debt reduction fund and a separate percentage of payroll for the portion of the Insurance Commissioner's budget attributable to the regulation of the self-insured employer market. The Insurance Commissioner will publish the debt reduction surcharge and the regulatory surcharge percentages for the private market, along with the percentage of payroll for the debt reduction and market regulation assessments of self-insured employers on or before the first day of May each year.

APPLICABLE LINES

W. Va. Code § 23-2C-3(f) provides for the private market debt reduction and regulatory surcharges to be assessed on only those premiums received for coverage under Chapter 23 (i.e. workers' compensation coverage). Premiums received by private market carriers for coverage other than those addressed in W. Va. Code Chapter 23 remain subject to premium taxes and the surcharge under Chapter 33 of the West Virginia Code. Under no circumstances shall any premiums be subject to both the surcharges under Chapter 23 and the taxes and surcharge under Chapter 33 of the West Virginia Code.

All coverage provided under Chapter 23 of the West Virginia Code is subject to the debt reduction and regulatory surcharges. W. Va. Code § 23-4B-1 et seq. provides for workers' compensation coverage specific to coal-workers' pneumoconiosis. The premiums received for coal-workers' pneumoconiosis are subject to the debt reduction and regulatory surcharges of Chapter 23. Additionally, although not addressed in Chapter 23, it is determined that premium collected in conjunction with the mandatory Foreign and Domestic Terrorism Premium endorsements of the workers' compensation policy is to provide workers' compensation coverage and thus subject to the debt reduction and regulatory surcharges of Chapter 23.

Employers' liability coverage is considered casualty liability coverage and continues to be regulated by Chapter 33 and subject to the premium taxes and the surcharge of that chapter. However, given that the advisory loss costs filed by the state's designated workers' compensation rating organization (NCCI) contain a factor for providing the standard limits of employers' liability coverage which can not be easily isolated from each, it has been determined that the premium collected for the total manual rate will be subject to Chapter 23 surcharges. This manual rate is inclusive of the premium amount for standard employers' liability coverage. All coverage for increased limits of employers' liability, no matter if part of a workers' compensation policy, a commercial liability policy, or a stand-alone policy, will be subject to the premium taxes and surcharge under Chapter 33.

SUMMARY

The total premium subject to surcharging shall be the same for the debt reduction surcharge and the regulatory surcharge. Surcharge calculations shall be assessed using the premium collected for the total manual premium, inclusive of premium for standard employers' liability coverage, shall include any premium collected for coal-workers' pneumoconiosis and mandatory terrorism endorsements, shall be net of any application of an experience modification factor and shall be net of any state approved debit/credit rating plan.

The table below segregates lines of coverage to applicable assessment Chapter.

Lines of Business	Chap. 23 – Debt Reduction and Regulatory Surcharges	Chap. 33 – Premium Taxes and Surcharge
Workers' Compensation (Part 1 coverage)	Yes	No
Employers' liability – Standard limits coverage filed within advisory Loss Costs	Yes	No
Increased limits of employers' liability (Part 2 coverage)	No	Yes
Mandatory Foreign and Domestic Terrorism Premium endorsements of a workers' comp policy	Yes	No
Coal-workers' pneumoconiosis	Yes	No

In keeping with this interpretation, any insurer transacting workers' compensation insurance in this State shall, beginning July 1, 2007, apply the assessment of the debt reduction and regulatory surcharges of Chapter 23, in accordance with W.Va. Code St. R § 85-6-1 et seq. (Rule 6).

Any questions regarding this correspondence or any related matters should be addressed to Michael Riley, Assistant Commissioner, at 304-558-6279 ext. 1113 or michael.riley@wvinsurance.gov.